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BRIAN LIVESAY

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

| | | |
|--------------------------|---|---|
| BRIAN LIVESAY, |) | Case No.: <u>'15CV1541 W BLM</u> |
| |) | |
| Plaintiff, |) | COMPLAINT AND DEMAND FOR |
| |) | JURY TRIAL |
| v. |) | (Unlawful Debt Collection Practices) |
| |) | |
| BARCLAY'S BANK DELAWARE, |) | |
| |) | |
| Defendant. |) | |

BRIAN LIVESAY (Plaintiff), by his attorneys, KROHN & MOSS, LTD., alleges the following against BARCLAY'S BANK DELAWARE (Defendant):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based on Telephone Consumer Protection Act, 28 U.S.C. § 227 *et seq.* (TCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this Court over Counts I of Plaintiff's Complaint arises pursuant to 28 U.S.C. § 1331, and 28 U.S.C. § 1367 grants this court supplemental jurisdiction over the state claims contained herein.
3. Defendant conducts business in the State of California thereby establishing personal jurisdiction.
4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in San Diego, San Diego County, California.
6. Defendant is a business entity with a principal place of business in Wilmington, Delaware.
7. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

8. In or around 2014, Defendant began constantly and continuously placing collection calls to Plaintiff seeking and demanding payment for an alleged debt.
9. Plaintiff's alleged debt arose through a consumer credit transaction.
10. Defendant places collection calls from telephone numbers, including, but not limited to, 866-408-4070, 256-308-7710, 256-308-7760, and 866-456-0677,
11. Defendant places collection calls to Plaintiff's cellular telephones at phone number 858-752-75XX.
12. Base upon the timing and frequency of Defendant's calls and per its prior business practices, each of Defendant's calls were placed using an automatic telephone dialing system.

1 13. On or around January 13, 2015 at approximately 2:14 p.m., Plaintiff spoke to
2 Defendant's representative and requested that Defendant cease calling his cellular
3 telephone.

4 14. Plaintiff revoked any consent, express, implied or otherwise, to receive automated
5 collection calls from Defendant in the course of the telephone conversations on or
6 around January 13, 2015.

7 15. Despite Plaintiff's request to cease, Defendant continued to place multiple collection
8 calls to Plaintiff on a daily basis.

9 16. Defendant placed at least one hundred and thirteen (113) collection calls to Plaintiff over
10 an approximate two-month period.

11 **COUNT I**

12 **DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTIONS ACT**

13 17. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA,
14 entitling Plaintiff to an award of \$500.00 in statutory damages for each and every
15 violation pursuant to 47 U.S.C. § 227(b)(3)(B).

16 18. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or
17 willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory
18 damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47
19 U.S.C. § 227(b)(3)(C).

20 Wherefore, Plaintiff, BRIAN LIVESAY, respectfully requests judgment be entered
21 against Defendant, BARCLAY'S BANK DELAWARE for the following:

22 19. Statutory damages of \$500.00 for each and every negligent violation of the TCPA
23 pursuant to 47 U.S.C. § (b)(3)(B);

24 20. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of
25 the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

1 21. All court costs, witness fees and other fees incurred; and

2 22. Any other relief that this Honorable Court deems appropriate.

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4
5 DATED: July 13, 2015

RESPECTFULLY SUBMITTED,

6 KROHN & MOSS, LTD.

7
8 By: /s/Ryan Lee

Ryan Lee

9 Attorney for Plaintiff

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11 **DEMAND FOR JURY TRIAL**

12 PLEASE TAKE NOTICE that Plaintiff, BRIAN LIVESAY, demands a jury trial in this
13 case.
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